

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 23, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 318

**Introduced by Senators ~~Hill and Steinberg~~ *Hill, Steinberg, and
Correa***

February 19, 2013

An act to amend Section 22750 of, and to add and repeal Article 3.6 (commencing with Section 22365) of Chapter 2 of Division 9 of, the Financial Code, relating to consumer loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, Hill. Consumer loans: Pilot Program for Increased Access to Responsible Small Dollar Loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes and authorizes a licensee to contract for and receive specified alternative charges and administrative and delinquency fees.

Existing law establishes, until January 1, 2015, the Pilot Program for Affordable Credit-Building Opportunities for the purpose of increasing the availability of credit-building opportunities to underbanked individuals seeking low-dollar-value loans. Under the program, licensees must file an application with, and pay a fee to, the Commissioner of Corporations to participate in the program. Existing law authorizes a licensee approved by the commissioner to participate in the program

to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$250 and less than \$2,500, subject to certain requirements. Existing law also authorizes licensees in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts at the finder's location, subject to a written agreement meeting specified requirements.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, certain responsibilities of the Department of Corporations and the Commissioner of Corporations will be transferred to the Department of Business Oversight and the Deputy Commissioner of Business Oversight for the Division of Corporations.

This bill would, until January 1, 2018, establish the Pilot Program for Increased Access to Responsible Small Dollar Loans for the purpose of allowing greater access for responsible installment loans in principal amounts of at least \$300 and less than \$2,500. The bill would require licensees and other entities to file an application and pay a specified fee to the Deputy Commissioner of Business Oversight for the Division of Corporations to participate in the program. The bill would authorize a licensee approved by the deputy commissioner to participate in the program to impose specified alternative interest rates and charges, including an ~~underwriting fee, an administrative fee,~~ *administrative fee* and delinquency fees, on loans of at least \$300 and less than \$2,500, subject to certain requirements.

This bill would also authorize a licensee in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements. The bill would establish the services a finder is authorized and required to perform, and would require a finder to comply with the laws applicable to the licensee relative to information security. The bill would require a licensee to notify the deputy commissioner within 15 days of entering into a contract with a finder, would require a licensee to pay an annual finder registration fee to the deputy commissioner, and would require a licensee to submit an annual report to the deputy commissioner on the licensee's relationship and business arrangements with a finder, as specified. The bill would authorize the deputy commissioner to examine the operations

of a licensee and a finder to ensure that the activities of the licensee and the finder are in compliance with these provisions. The bill would make a licensee that uses a finder responsible for a violation of these provisions by a finder or a finder's employee, and would authorize the deputy commissioner to impose administrative penalties against a finder for a violation of these provisions. The bill would authorize the deputy commissioner, upon a violation of these provisions, to disqualify a finder from performing services, bar a finder from performing services at one or more specific locations of the finder, terminate a written agreement between a licensee and a finder, and, under specified circumstances, prohibit the use of the finder by all licensees. The bill would authorize a licensee participating in the program to appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the deputy commissioner.

This bill would require the deputy commissioner to examine the performance of each licensee in the program at least once every 24 months, and would require the costs of examination to be paid by the licensee to the deputy commissioner, as specified. The bill would also require the deputy commissioner to conduct a random sample survey of borrowers under the program. The bill would require the deputy commissioner to post a report on the deputy commissioner's Internet Web site by January 1, 2016, and once again by January 1, 2017, summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans, as specified.

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

This bill would also make a clarifying change to the California Finance Lenders Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 3.6 (commencing with Section 22365) is
- 2 added to Chapter 2 of Division 9 of the Financial Code, to read:

1 Article 3.6. Pilot Program for Increased Access to Responsible
2 Small Dollar Loans

3
4 22365. (a) The Pilot Program for Increased Access to
5 Responsible Small Dollar Loans is hereby established.

6 (b) The Legislature finds and declares that consumer demand
7 for responsible installment loans in principal amounts of at least
8 three hundred dollars (\$300) but less than two thousand five
9 hundred dollars (\$2,500) exceeds the supply of these loans. In
10 2010, the Legislature enacted the Pilot Program for Affordable
11 Credit-Building Opportunities, as a first step toward addressing
12 this gap. California's experience to date with that pilot program
13 has identified several improvements that could be made, which
14 would allow more Californians to access responsible installment
15 loans of at least three hundred dollars (\$300) but less than two
16 thousand five hundred dollars (\$2,500). This new Pilot Program
17 for Increased Access to Responsible Small Dollar Loans is intended
18 to implement those improvements.

19 (c) For purposes of this article:

20 (1) "Deputy commissioner" means the Deputy Commissioner
21 of Business Oversight for the Division of Corporations.

22 (2) "Program" means the Pilot Program for Increased Access
23 to Responsible Small Dollar Loans.

24 22366. (a) Any entity licensed under this chapter that wishes
25 to participate in the program, that is in good standing with the
26 Deputy Commissioner of Business Oversight for the Division of
27 Corporations and has no outstanding enforcement actions or
28 deficiencies at the time of its application, shall file an application
29 with the deputy commissioner, in a manner prescribed by the
30 deputy commissioner, and shall pay a fee to the deputy
31 commissioner, in an amount calculated by the deputy commissioner
32 to cover its costs to administer this article.

33 (b) Any entity wishing to participate in the program that is not
34 licensed pursuant to this chapter may submit a combined
35 application to the deputy commissioner, in a manner prescribed
36 by the deputy commissioner, for licensure under this chapter and
37 admission to the program and shall pay a fee to the deputy
38 commissioner in an amount equal to the fees that would have been
39 imposed if the person had submitted separate applications. To be
40 eligible to apply in this manner, an entity must be free of

1 outstanding enforcement or other disciplinary actions taken against
2 it by any of California's financial regulators or by a financial
3 regulator of another state.

4 22367. Every entity approved by the deputy commissioner to
5 participate in the program shall file with the deputy commissioner
6 on or before March 15 an annual report consistent with Section
7 22159, separate from any other annual report the licensee may be
8 required to file.

9 22368. Except as otherwise provided, nothing in this article
10 shall exempt any licensee from any of the provisions of this
11 division or Section 1632 of the Civil Code.

12 22369. No licensee may offer or make a loan, nor impose any
13 charges or fees pursuant to Section 22370, nor use a finder pursuant
14 to Section 22371, without prior approval from the deputy
15 commissioner to participate in the program.

16 22370. (a) Any loan made pursuant to this section shall comply
17 with the following requirements:

18 (1) *The loan shall be unsecured.*

19 ~~(1)~~

20 (2) Interest on the loan shall accrue on a simple-interest basis,
21 through the application of a daily periodic rate to the actual unpaid
22 principal balance each day.

23 ~~(2)~~

24 (3) The licensee shall disclose the following to the consumer
25 in writing, in a type face no smaller than 12-point type, at the time
26 of application:

27 (A) The amount borrowed; the total dollar cost of the loan to
28 the consumer if the loan is paid back on time, including the sum
29 of the ~~origination fee, underwriting~~ *administrative* fee, principal
30 amount borrowed, and interest payments; the corresponding annual
31 percentage rate, calculated in accordance with Federal Reserve
32 Board Regulation Z (12 C.F.R. 226); the periodic payment amount;
33 the delinquency fee schedule; and the following statement:
34 "Repaying your loan early will lower your borrowing costs by
35 reducing the amount of interest you will pay. This loan has no
36 prepayment penalty."

37 (B) A statement that the consumer has the right to rescind the
38 loan by notifying the licensee of the consumer's intent to rescind
39 the loan and returning the principal advanced by the end of the
40 business day following the date the loan is consummated.

1 ~~(3)~~

2 (4) A licensee may provide the borrower with the disclosures
3 required by paragraph ~~(2)~~ (3) in a mobile phone application, on
4 which the size of the type face of the disclosure can be manually
5 modified by a prospective borrower, if the prospective borrower
6 is given the option to print the disclosure in a type face of at least
7 12-point size or is provided by the licensee with a hard copy of
8 the disclosure in a type face of at least 12-point size before the
9 loan is consummated.

10 ~~(4)~~

11 (5) The loan shall have a minimum principal amount upon
12 origination of three hundred dollars (\$300) and a term of not less
13 than the following:

14 (A) Ninety days for loans whose principal balance upon
15 origination is less than five hundred dollars (\$500).

16 (B) One hundred twenty days for loans whose principal balance
17 upon origination is at least five hundred dollars (\$500), but is less
18 than one thousand five hundred dollars (\$1,500).

19 (C) One hundred eighty days for loans whose principal balance
20 upon origination is at least one thousand five hundred dollars
21 (\$1,500).

22 (b) As an alternative to the charges authorized by Section 22303
23 or 22304, a licensee approved by the deputy commissioner to
24 participate in the program may contract for and receive charges
25 for a loan made pursuant to this section at an annual simple interest
26 rate not to exceed the *lesser of 36.0 percent or the* following:

27 (1) 32.75 percent plus the United States prime lending rate, as
28 of the date of loan origination, on that portion of the unpaid
29 principal balance of the loan up to and including, but not in excess
30 of, one thousand dollars (\$1,000). The interest rate calculated as
31 of the date of loan origination shall be fixed for the life of the loan.

32 (2) 28.75 percent plus the United States prime lending rate, as
33 of the date of loan origination, on that portion of the unpaid
34 principal balance of the loan in excess of one thousand dollars
35 (\$1,000), but less than two thousand five hundred dollars (\$2,500).
36 The interest rate calculated as of the date of loan origination shall
37 be fixed for the life of the loan.

38 (c) As to any loan made under this section, a licensee approved
39 by the deputy commissioner to participate in the program may
40 contract for and receive an underwriting fee, which shall be fully

1 ~~earned immediately upon making the loan, in an amount not to~~
2 ~~exceed thirty dollars (\$30), and an administrative fee, which shall~~
3 ~~be fully earned immediately upon making the loan, in an amount~~
4 ~~not to exceed 6 7 percent of the principal amount, exclusive of the~~
5 ~~underwriting fee and administrative fee, or seventy-five~~ *ninety*
6 ~~dollars (\$75) (\$90), whichever is less. A licensee shall not charge~~
7 ~~the same borrower an underwriting fee or an administrative fee~~
8 ~~more than once in any four-month period. An underwriting fee or~~
9 ~~an administrative fee shall not be contracted for or received in~~
10 ~~connection with the refinancing of a loan unless at least eight~~
11 ~~months have elapsed since the receipt of a previous underwriting~~
12 ~~fee or administrative fee paid by the borrower. Only one~~
13 ~~underwriting fee and one administrative fee may be contracted for~~
14 ~~or received until the loan has been repaid in full. Section 22305~~
15 ~~shall not apply to any loan made under this section.~~

16 (d) Notwithstanding subdivision (a) of Section 22320.5, a
17 licensee approved by the deputy commissioner to participate in
18 the program may require reimbursement from a borrower for the
19 actual insufficient funds fees incurred by that licensee due to
20 actions of the borrower, and may contract for and receive a
21 delinquency fee that is one of the following amounts:

22 (1) For a period of delinquency of not less than ~~four~~ *seven* days,
23 an amount not in excess of ~~sixteen~~ *fourteen* dollars (~~\$16~~) (*\$14*).

24 (2) For a period of delinquency of not less than 14 days, an
25 amount not in excess of ~~twenty-two~~ *twenty* dollars (~~\$22~~) (*\$20*).

26 (e) If a licensee opts to impose a delinquency fee, it shall use
27 the delinquency fee schedule described in subdivision (d), subject
28 to all of the following:

29 (1) No more than one delinquency fee may be imposed per
30 delinquent payment.

31 (2) No more than two delinquency fees may be imposed during
32 any period of 30 consecutive days.

33 (3) No delinquency fee may be imposed on a borrower who is
34 180 days or more past due if that fee would result in the sum of
35 the borrower's remaining unpaid principal balance, accrued interest,
36 and delinquency fees exceeding 180 percent of the original
37 principal amount of the borrower's loan.

38 (4) The licensee or any of its wholly owned subsidiaries shall
39 attempt to collect a delinquent payment for a period of at least 30

1 days following the start of the delinquency before selling or
2 assigning that unpaid debt to an independent party for collection.

3 (f) The following shall apply to a loan made by a licensee
4 pursuant to this section:

5 (1) Prior to disbursement of loan proceeds, the licensee shall
6 either (A) offer a credit education program or seminar to the
7 borrower that has been previously reviewed and approved by the
8 deputy commissioner for use in complying with this section; or
9 (B) invite the borrower to a credit education program or seminar
10 offered by an independent third party that has been previously
11 reviewed and approved by the deputy commissioner for use in
12 complying with this section. The borrower shall not be required
13 to participate in either of these education programs or seminars.

14 (2) The licensee shall report each borrower's payment
15 performance to at least one consumer reporting agency that
16 compiles and maintains files on consumers on a nationwide basis,
17 upon acceptance as a data furnisher by that consumer reporting
18 agency. For purposes of this section, a consumer reporting agency
19 that compiles and maintains files on consumers on a nationwide
20 basis is one that meets the definition in Section 603(p) of the
21 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any
22 licensee that is accepted as a data furnisher after admittance into
23 the program must report all borrower payment performance since
24 its inception of lending under the program, as soon as practicable
25 after its acceptance into the program, but in no event more than
26 six months after its acceptance into the program.

27 (A) The deputy commissioner may approve a licensee for the
28 program, before that licensee has been accepted as a data furnisher
29 by a consumer reporting agency, if the deputy commissioner has
30 a reasonable expectation, based on information supplied by the
31 licensee, of both of the following:

32 (i) The licensee will be accepted as a data furnisher, once it
33 achieves a lending volume required of data furnishers of its type
34 by a consumer reporting agency.

35 (ii) That lending volume will be achieved within the first six
36 months of the licensee commencing lending.

37 (B) Notwithstanding subparagraph (A), the deputy commissioner
38 shall withdraw approval for pilot program participation from any
39 licensee that fails to become accepted as a data furnisher by a

1 consumer reporting agency within six months of commencing
2 lending under the pilot program.

3 (3) The licensee shall provide each borrower with the name of
4 the consumer reporting agency or agencies to which it will report
5 the borrower's payment history. A licensee that is accepted as a
6 data furnisher after admittance into the program shall notify its
7 borrowers, as soon as practicable following acceptance as a data
8 furnisher, regarding the name of the consumer reporting agency
9 or agencies to which it will report that borrower's payment history.

10 (4) (A) The licensee shall underwrite each loan to determine a
11 borrower's ability and willingness to repay the loan pursuant to
12 the loan terms, and shall not make a loan if it determines, through
13 its underwriting, that the borrower's total monthly debt service
14 payments, at the time of origination, including the loan for which
15 the borrower is being considered, and across all outstanding forms
16 of credit that can be independently verified by the licensee, exceed
17 50 percent of the borrower's gross monthly income.

18 (B) (i) The licensee shall seek information and documentation
19 pertaining to all of a borrower's outstanding debt obligations during
20 the loan application and underwriting process, including loans that
21 are self-reported by the borrower but not available through
22 independent verification. The licensee shall verify that information
23 using a credit report from at least one consumer reporting agency
24 that compiles and maintains files on consumers on a nationwide
25 basis or through other available electronic debt verification services
26 that provide reliable evidence of a borrower's outstanding debt
27 obligations.

28 (ii) Notwithstanding the verification requirement in
29 subparagraph (A), the licensee shall request from the borrower
30 and include all information obtained from the borrower regarding
31 outstanding deferred deposit transactions in the calculation of the
32 borrower's outstanding debt obligations.

33 (iii) The licensee shall not be required to consider, for purposes
34 of debt-to-income ratio evaluation, loans from friends or family.

35 (C) The licensee shall also verify the borrower's income that
36 the licensee relies on to determine the borrower's debt-to-income
37 ratio using information from either of the following:

38 (i) Electronic means or services that provide reliable evidence
39 of the borrower's actual income.

1 (ii) Internal Revenue Service Form W-2, tax returns, payroll
2 receipts, bank statements, or other third-party documents that
3 provide reasonably reliable evidence of the borrower's actual
4 income.

5 (5) The licensee shall notify each borrower, at least two days
6 prior to each payment due date, informing the borrower of the
7 amount due, and the payment due date. Notification may be
8 provided by any means acceptable to the borrower.

9 (g) (1) Notwithstanding Sections 22311 to 22315, inclusive,
10 no person, in connection with, or incidental to, the making of any
11 loan made pursuant to this article, may offer, sell, or require the
12 borrower to contract for "credit insurance" as defined in paragraph
13 (1) of subdivision (a) of Section 22314 or insurance on tangible
14 personal or real property of the type specified in Section 22313.

15 (2) Notwithstanding Sections 22311 to 22315, inclusive, no
16 licensee, finder, or any other person that participates in the
17 origination of a loan under this article shall refer a borrower to any
18 other person for the purchase of "credit insurance" as defined in
19 paragraph (1) of subdivision (a) of Section 22314 or insurance on
20 tangible personal or real property of the type specified in Section
21 22313.

22 (h) (1) No licensee shall require, as a condition of providing
23 the loan, that the borrower waive any right, penalty, remedy, forum,
24 or procedure provided for in any law applicable to the loan,
25 including the right to file and pursue a civil action or file a
26 complaint with or otherwise communicate with the deputy
27 commissioner or any court or other public entity, or that the
28 borrower agree to resolve disputes in a jurisdiction outside of
29 California or to the application of laws other than those of
30 California, as provided by law. Any waiver by a borrower must
31 be knowing, voluntary, and in writing, and expressly not made a
32 condition of doing business with the licensee. Any waiver that is
33 required as a condition of doing business with the licensee shall
34 be presumed involuntary, unconscionable, against public policy,
35 and unenforceable. The licensee has the burden of proving that a
36 waiver of any rights, penalties, forums, or procedures was knowing,
37 voluntary, and not made a condition of the contract with the
38 borrower.

39 (2) No licensee shall refuse to do business with or discriminate
40 against a borrower or applicant on the basis that the borrower or

1 applicant refuses to waive any right, penalty, remedy, forum, or
2 procedure, including the right to file and pursue a civil action or
3 complaint with, or otherwise notify, the deputy commissioner or
4 any court or other public entity. The exercise of a person's right
5 to refuse to waive any right, penalty, remedy, forum, or procedure,
6 including a rejection of a contract requiring a waiver, shall not
7 affect any otherwise legal terms of a contract or an agreement.

8 (3) This subdivision shall not apply to any agreement to waive
9 any right, penalty, remedy, forum, or procedure, including any
10 agreement to arbitrate a claim or dispute, after a claim or dispute
11 has arisen. Nothing in this subdivision shall affect the enforceability
12 or validity of any other provision of the contract.

13 (i) This section shall not apply to any loan of a bona fide
14 principal amount of two thousand five hundred dollars (\$2,500)
15 or more as determined in accordance with Section 22251. For
16 purposes of this subdivision, "bona fide principal amount" shall
17 be determined in accordance with Section 22251.

18 22371. (a) A licensee who is approved by the deputy
19 commissioner to participate in the program may use the services
20 of one or more finders as provided in this article.

21 (b) For purposes of this article, a "finder" means an entity that,
22 at the finder's physical location for business, brings a licensee and
23 a prospective borrower together for the purpose of negotiating a
24 loan contract.

25 (c) An entity, whose sole means of bringing a licensee and a
26 prospective borrower together at that entity's physical location for
27 business is via an electronic access point through which a
28 prospective borrower may directly access the Internet Web site of
29 a licensee is not a "finder" for purposes of this article.

30 22372. (a) A finder may perform one or more of the following
31 services for a licensee at the finder's physical location for business:

32 (1) Distributing, circulating, using, or publishing preprinted
33 brochures, flyers, factsheets, or other written materials relating to
34 loans that the licensee may make or negotiate and that have been
35 reviewed and approved in writing by the licensee prior to their
36 being distributed, circulated, or published.

37 (2) Providing written factual information about loan terms,
38 conditions, or qualification requirements to a prospective borrower
39 that has been either prepared by the licensee or reviewed and
40 approved in writing by the licensee. A finder may discuss that

1 information with a prospective borrower in general terms, but may
2 not provide counseling or advice to a prospective borrower.

3 (3) Notifying a prospective borrower of the information needed
4 in order to complete a loan application without providing
5 counseling or advice to a prospective borrower.

6 (4) Entering information provided by the prospective borrower
7 on a preprinted or electronic application form or onto a
8 preformatted computer database without providing counseling or
9 advice to a prospective borrower.

10 (5) Assembling credit applications and other materials obtained
11 in the course of a credit application transaction for submission to
12 the licensee.

13 (6) Contacting the licensee to determine the status of a loan
14 application.

15 (7) Communicating a response that is returned by the licensee's
16 automated underwriting system to a borrower or a prospective
17 borrower.

18 (8) Obtaining a borrower's signature on documents prepared
19 by the licensee and delivering final copies of the documents to the
20 borrower.

21 (b) A finder shall not engage in any of the following activities:

22 (1) Providing counseling or advice to a borrower or prospective
23 borrower.

24 (2) Providing loan-related marketing material that has not
25 previously been approved by the licensee to a borrower or a
26 prospective borrower.

27 (3) Interpreting or explaining the relevance, significance, or
28 effect of any of the marketing materials or loan documents the
29 finder provides to a borrower or prospective borrower.

30 (c) Any person who performs one or more of the following
31 activities is a broker within the meaning of Section 22004 rather
32 than a finder within the meaning of this section:

33 (1) Negotiating the price, length, or any other loan term between
34 a licensee and a prospective borrower.

35 (2) Advising either a prospective borrower or a licensee as to
36 any loan term.

37 (3) Offering information pertaining to a single prospective
38 borrower to more than one licensee, except that, if a licensee has
39 declined to offer a loan to a prospective borrower and has so
40 notified that prospective borrower in writing, the person may then

1 offer information pertaining to a single prospective borrower to
2 another licensee with which it has a finder's agreement.

3 (4) Personally contacting or providing services to a borrower
4 or prospective borrower at any place other than the finder's
5 physical location for business.

6 (d) A finder shall comply with all laws applicable to the licensee
7 that impose requirements upon the licensee for safeguards for
8 information security.

9 22373. (a) At the time the finder receives or processes an
10 application for a program loan, the finder shall provide the
11 following statement to the applicant, on behalf of the licensee, in
12 no smaller than 10-point type, and shall ask the applicant to
13 acknowledge receipt of the statement in writing:

14
15 "Your loan application has been referred to us by [Name of
16 Finder]. We may pay a fee to [Name of Finder] for the successful
17 referral of your loan application. IF YOU ARE APPROVED FOR
18 THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR
19 LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP
20 WITH [NAME OF LICENSEE]. If you wish to report a complaint
21 about [Name of Finder] or [Name of Licensee] regarding this loan
22 transaction, you may contact the Department of Business Oversight,
23 Division of Corporations at 1-866-ASK-CORP (1-866-275-2677),
24 or file your complaint online at www.corp.ca.gov."

25
26 (b) If the loan is consummated, the licensee shall provide the
27 borrower a written copy of the disclosure notice within two weeks
28 following the date of the loan consummation. A licensee may
29 include the disclosure within its loan contract, or may provide it
30 as a separate document to the borrower, via any means acceptable
31 to the borrower.

32 22374. (a) A finder may be compensated by the licensee
33 pursuant to the written agreement between the licensee and the
34 finder, as described in Section 22376.

35 (b) The compensation of a finder by a licensee shall be subject
36 to all of the following requirements:

37 (1) No fee shall be paid to a finder in connection with a loan
38 application until and unless that loan is consummated.

39 (2) No fee shall be paid to a finder based upon the principal
40 amount of the loan.

1 (3) No fee paid to a finder shall exceed the following amounts:

2 (A) Forty-five dollars (\$45) per loan for the first 40 loans
3 originated each month at the finder's location.

4 (B) Forty dollars (\$40) per loan for any subsequent loans
5 originated during that month at the finder's location.

6 (4) The finder's location for services under this article and other
7 information required by Section 22375 has been reported to the
8 deputy commissioner and the finder has not been barred from
9 providing services at that location by the deputy commissioner.

10 (c) No licensee shall, directly or indirectly, pass on to a borrower
11 any fee, or any portion of any fee, that the licensee pays to a finder
12 in connection with that borrower's loan or loan application.

13 22375. A licensee that utilizes the service of a finder shall do
14 all of the following:

15 (a) Notify the deputy commissioner within 15 days of entering
16 into a contract with a finder, on a form acceptable to the deputy
17 commissioner, regarding all of the following:

18 (1) The name and business address of the finder and all locations
19 at which the finder will perform services under this article.

20 (2) The name and contact information for an employee of the
21 finder who is knowledgeable about, and has the authority to
22 execute, the contract governing the business relationship between
23 the finder and the licensee.

24 (3) The name and contact information for one or more
25 employees of the finder who are responsible for that finder's
26 finding activities on behalf of the licensee.

27 (4) A list of the activities the finder shall perform on behalf of
28 the licensee.

29 (5) Any other information requested by the deputy
30 commissioner.

31 (b) Pay an annual finder registration fee to the deputy
32 commissioner in an amount to be established by the deputy
33 commissioner by regulation for each finder utilized by the licensee.

34 (c) Submit an annual report to the deputy commissioner
35 including any information pertaining to each finder and the
36 licensee's relationship and business arrangements with each finder
37 as the deputy commissioner may by regulation require.

38 22376. All arrangements between a licensee and a finder shall
39 be set forth in a written agreement between the parties. The
40 agreement shall contain a provision establishing that the finder

1 agrees to comply with all regulations that are established by the
2 deputy commissioner pursuant to this article regarding the activities
3 of finders and that the deputy commissioner shall have access to
4 all of the finder's books and records that pertain to the finder's
5 operations under the agreement with the licensee.

6 22377. (a) The deputy commissioner may examine the
7 operations of each licensee and each finder to ensure that the
8 activities of the licensee and the finder are in compliance with this
9 article. The costs of the deputy commissioner's examination of
10 each finder shall be attributed to the deputy commissioner's
11 examination of the licensee. Any violation of this article by a finder
12 or a finder's employee shall be attributed to the finance lender
13 with whom it has entered into an agreement for purposes of
14 determining the licensee's compliance with this division.

15 (b) Upon a determination that a finder has acted in violation of
16 this article, or any implementing regulation, the deputy
17 commissioner shall have the authority to disqualify a finder from
18 performing services under this article, bar a finder from performing
19 services at one or more specific locations of that finder, terminate
20 a written agreement between a finder and a licensee, and, if the
21 deputy commissioner deems that action in the public interest,
22 prohibit the use of that finder by all licensees accepted to
23 participate in the pilot program.

24 (c) In addition to any other penalty allowed by law, the deputy
25 commissioner may impose an administrative penalty up to two
26 thousand five hundred dollars (\$2,500) for violations of this article
27 committed by a finder.

28 22378. Notwithstanding the requirements of Section 22102
29 and its implementing regulations, a licensee accepted to participate
30 in the program may appoint one or more branch managers with
31 responsibility for multiple branch locations, subject to approval
32 by the deputy commissioner, and a finding by the deputy
33 commissioner that the centralized nature of underwriting and other
34 key business activities performed by the licensee does not require
35 a unique manager for each branch location, to ensure the protection
36 of consumers who seek out loans from the licensee. The deputy
37 commissioner may revoke this approval at any time, upon a finding
38 that a unique branch manager at each branch location is required
39 for consumer protection.

1 22379. Notwithstanding any other law, the deputy
2 commissioner shall examine each licensee that is accepted into
3 the program at least once every 24 months. The cost of each
4 examination of a licensee shall be paid to the deputy commissioner
5 by the licensee examined, and the deputy commissioner may
6 maintain an action for the recovery of the cost in any court of
7 competent jurisdiction. In determining the cost of the examination,
8 the deputy commissioner may use the estimated average hourly
9 cost for all persons performing examinations of licensees or other
10 persons subject to this division for the fiscal year.

11 22380. (a) On or before January 1, 2016, and again, on or
12 before January 1, 2017, the deputy commissioner shall post a report
13 on his or her Internet Web site summarizing utilization of the Pilot
14 Program for Increased Access to Responsible Small Dollar Loans.

15 (b) The information disclosed to the deputy commissioner for
16 the deputy commissioner's use in preparing the report described
17 in this section is exempted from any requirement of public
18 disclosure by paragraph (2) of subdivision (d) of Section 6254 of
19 the Government Code.

20 (c) If there is more than one licensee approved to participate in
21 the program under this article, the report required pursuant to
22 subdivision (a) shall state information in aggregate so as not to
23 identify data by specific licensee.

24 (d) The report required pursuant to this section shall specify the
25 time period to which the report corresponds, and shall include, but
26 not be limited to, the following for that time period:

27 (1) The number of entities that applied to participate in the
28 program.

29 (2) The number of entities accepted to participate in the program.

30 (3) The reason or reasons for rejecting applications for
31 participation, if applicable. This information shall be provided in
32 a manner that does not identify the entity or entities rejected.

33 (4) The number of program loan applications received by lenders
34 participating in the program, the number of loans made pursuant
35 to the program, the total amount loaned, and the distribution of
36 interest rates and principal amounts upon origination among those
37 loans.

38 (5) The number of borrowers who obtained more than one
39 program loan.

1 (6) Of the number of borrowers who obtained more than one
2 program loan, the percentage of those borrowers whose credit
3 scores increased between successive loans, based on information
4 from at least one major credit bureau, and the average size of the
5 increase.

6 (7) The income distribution of borrowers upon loan origination.

7 (8) The number and type of finders used by licensees and the
8 relative performance of loans consummated by finders compared
9 to the performance of loans consummated without a finder.

10 (9) The number and percentage of borrowers who obtained one
11 or more program loans on which late fees were assessed, the total
12 amount of late fees assessed, and the average late fee assessed by
13 dollar amount and as a percentage of the principal amount loaned.

14 (10) The number and percentage of borrowers who defaulted
15 on a program loan.

16 (11) The number and types of violations of this article by finders,
17 which were documented by the deputy commissioner.

18 (12) The number and types of violations of this article by
19 licensees, which were documented by the deputy commissioner.

20 (13) The number of times that the deputy commissioner
21 disqualified a finder from performing services, barred a finder
22 from performing services at one or more specific locations of the
23 finder, terminated a written agreement between a finder and a
24 licensee, or imposed an administrative penalty.

25 (14) The number of complaints received by the deputy
26 commissioner about a licensee or a finder, and the nature of those
27 complaints.

28 (15) Recommendations for improving the program.

29 (16) Recommendations regarding whether the program should
30 be continued after January 1, 2018.

31 (e) The deputy commissioner shall conduct a random sample
32 survey of borrowers who have participated in the program to obtain
33 information regarding the borrowers' experience and licensees'
34 compliance with this article. The results of this survey shall be
35 included in the report required by this section.

36 22381. This article shall remain in effect only until January 1,
37 2018, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 1, 2018, deletes or extends that date.

39 SEC. 2. Section 22750 of the Financial Code is amended to
40 read:

1 22750. (a) If any amount other than, or in excess of, the
2 charges permitted by this division is willfully charged, contracted
3 for, or received, the contract of loan is void, and no person has any
4 right to collect or receive any principal, charges, or recompense
5 in connection with the transaction.

6 (b) If any provision of this division is willfully violated in the
7 making or collection of a loan, whether by a licensee or by an
8 unlicensed person subject to this division, the contract of loan is
9 void, and no person has any right to collect or receive any principal,
10 charges, or recompense in connection with the transaction.

11 SEC. 3. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.